

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

| | | |
|-------------------------------------|---|------------------------|
| REBEL HAYS, | } | |
| | } | |
| Plaintiff, | } | Case No. 1:13-cv-00913 |
| | } | Janet T. Neff |
| v. | } | U.S. District Judge |
| | } | |
| SHERMETA, ADAMS & VON ALLMEN PC. | } | |
| & ENRIGHT, ANDREA A. (individually) | } | |
| VON ALLMEN, KYLE J. (individually) | } | |
| GRUCA, TERRI P. (individually) | } | |
| WINSLOW, DEBORAH A. (individually) | } | |
| | } | |
| Defendants. | } | |

REBEL HAYS
Plaintiff, In Pro Per
31283 US HWY 12
Niles, MI 49120

DEBORAH A. WINSLOW (P63179)
SHERMETA, ADAMS & VON ALLMEN, P.C.
Attorney for Defendants
P. O. Box 5016
Rochester, MI 48308
(248) 519-1700

DEFENDANTS' ANSWER TO PLAINTIFF'S COMPLAINT

NOW COMES Defendants, SHERMETA, ADAMS & VON ALLMEN PC. & ANDREA A. ENRIGHT, KYLE J. VON ALLMEN, TERRI P. GRUCA, DEBORAH A. WINSLOW, by and through their attorney, DEBORAH A. WINSLOW, and for its Answer states as follows:

JURISDICTION AND VENUE

1. The allegations contained in paragraph 1 of Plaintiff's complaint are admitted.
2. The allegations contained in paragraph 2 of Plaintiff's complaint are admitted.
3. The allegations contained in paragraph 3 of Plaintiff's complaint are admitted.

4. The allegations contained in paragraph 4 of Plaintiff's complaint are neither admitted nor denied for the reason that a portion of the allegation calls for information outside the scope of Defendants' knowledge.

FACTUAL ALLEGATIONS

5. The allegations contained in paragraph 5 of Plaintiff's complaint are admitted.
6. The allegations contained in paragraph 6 of Plaintiff's complaint are admitted.
7. The allegations contained in paragraph 7 of Plaintiff's complaint are denied for the reason that said allegations are untrue.
8. The allegations contained in paragraph 8 of Plaintiff's complaint are denied for the reason that said allegations are untrue.
9. The allegations contained in paragraph 9 of Plaintiff's complaint are denied for the reason that said allegations are untrue
10. The allegations contained in paragraph 10 of Plaintiff's complaint are denied for the reason that said allegations are untrue
11. The allegations contained in paragraph 11 of Plaintiff's complaint are denied for the reason that said allegations are untrue.
12. The allegations contained in paragraph 12 of Plaintiff's complaint are denied for the reason that said allegations are untrue.
13. The allegations contained in paragraph 13 of Plaintiff's complaint are denied for the reason that said allegations are untrue.
14. The allegations contained in paragraph 14 of Plaintiff's complaint are denied for the reason that said allegations are untrue.

15. The allegations contained in paragraph 15 of Plaintiff's complaint are denied for the reason that said allegations are untrue.
16. The allegations contained in paragraph 16 of Plaintiff's complaint are denied for the reason that said allegations are untrue.
17. The allegations contained in paragraph 17 of Plaintiff's complaint are denied for the reason that said allegations are untrue.
18. The allegations contained in paragraph 18 of Plaintiff's complaint are denied for the reason that said allegations are untrue.
19. The allegations contained in paragraph 19 of Plaintiff's complaint are denied for the reason that said allegations are untrue.
20. The allegations contained in paragraph 20 of Plaintiff's complaint are denied for the reason that said allegations are untrue.
21. The allegations contained in paragraph 21 of Plaintiff's complaint are denied for the reason that said allegations are untrue.
22. The allegations contained in paragraph 22 of Plaintiff's complaint are denied for the reason that said allegations are untrue.

COUNT I

VIOLATION OF FAIR CREDIT REPORTING ACT (FCRA)
IMPERMISSIBLE PURPOSE 15 U.S.C. 1681b *et seq* 1681b(a) AND 1681b(f)
et seq USE OR OBTAINING IS PROHIBITED BY DEFENDANT
SHERMETA, ADAMS & VON ALLMEN

23. Defendants incorporate by reference their responses to paragraphs 1 through 22 as though fully set forth herein.
24. The allegations contained in paragraph 24 of Plaintiff's complaint are neither admitted nor denied for the reason that the allegations contained therein call for a legal conclusion.

25. The allegations contained in paragraph 25 of Plaintiff's complaint are denied for the reason that said allegations are untrue.
26. The allegations contained in paragraph 26 of Plaintiff's complaint are denied for the reason that said allegations are untrue.
27. The allegations contained in paragraph 27 of Plaintiff's complaint are denied for the reason that said allegations are untrue.
28. The allegations contained in paragraph 28 of Plaintiff's complaint are denied for the reason that said allegations are untrue.
29. The allegations contained in paragraph 29 of Plaintiff's complaint are denied for the reason that said allegations are untrue.
30. The allegations contained in paragraph 30, and all subparts thereto of Plaintiff's complaint are denied for the reason that said allegations are untrue.

COUNT II

VIOLATION OF FAIR DEBT COLLECTION PRACTICES ACT (FDCPA),
15 U.S.C. §1692i *et seq* VENUE LEGAL ACTION OUTSIDE PLAINTIFFS
JURISDICTION BY DEBT COLLECTOR SHERMETA, ADAMS & VON
ALLMEN

31. Defendants incorporate by reference their responses to paragraphs 1 through 30 as though fully set forth herein.
32. The allegations contained in paragraph 32 of Plaintiff's complaint are admitted.
33. The allegations contained in paragraph 33 of Plaintiff's complaint are denied for the reason that said allegations are untrue.
34. The allegations contained in paragraph 34, and all subparts thereto of Plaintiff's complaint are denied for the reason that said allegations are untrue.

COUNT III

VIOLATION OF FAIR DEBT COLLECTION PRACTICES ACT (FDCPA),
15 U.S.C. §1692i *et seq* VENUE LEGAL ACTION OUTSIDE PLAINTIFFS
JURISDICTION BY DEFENDANT ANDREA A. ENRIGHT

35. Defendants incorporate by reference their responses to paragraphs 1 through 34 as though fully set forth herein.
36. The allegations contained in paragraph 36 of Plaintiff's complaint are denied for the reason that said allegations are untrue.
37. The allegations contained in paragraph 37, and all subparts thereto of Plaintiff's complaint are denied for the reason that said allegations are untrue.

COUNT IV

VIOLATION OF FAIR DEBT COLLECTION PRACTICES ACT (FDCPA),
15 U.S.C. §1692i *et seq* VENUE LEGAL ACTION OUTSIDE PLAINTIFFS
JURISDICTION BY DEFENDANT KYLE J. VON ALLMEN

38. Defendants incorporate by reference their responses to paragraphs 1 through 37 as though fully set forth herein.
39. The allegations contained in paragraph 39 of Plaintiff's complaint are denied for the reason that said allegations are untrue.
40. The allegations contained in paragraph 40, and all subparts thereto of Plaintiff's complaint are denied for the reason that said allegations are untrue.

COUNT V

VIOLATION OF FAIR DEBT COLLECTION PRACTICES ACT (FDCPA),
15 U.S.C. §1692i *et seq* VENUE LEGAL ACTION OUTSIDE PLAINTIFFS
JURISDICTION BY DEFENDANT TERRI P. GRUCA

41. Defendants incorporate by reference their responses to paragraphs 1 through 40 as though fully set forth herein.
42. The allegations contained in paragraph 42 of Plaintiff's complaint are denied for the reason that said allegations are untrue.

43. The allegations contained in paragraph 43, and all subparts thereto of Plaintiff's complaint are denied for the reason that said allegations are untrue.

COUNT IV
VIOLATION OF FAIR DEBT COLLECTION PRACTICES ACT (FDCPA),
15 U.S.C. §1692i *et seq* VENUE LEGAL ACTION OUTSIDE PLAINTIFFS
JURISDICTION BY DEFENDANT DEBORAH A. WINSLOW

44. Defendants incorporate by reference their responses to paragraphs 1 through 43 as though fully set forth herein.

45. The allegations contained in paragraph 45 of Plaintiff's complaint are denied for the reason that said allegations are untrue.

46. The allegations contained in paragraph 46, and all subparts thereto of Plaintiff's complaint are denied for the reason that said allegations are untrue.

COUNT VII
VIOLATION OF FAIR DEBT COLLECTION PRACTICES ACT (FDCPA),
15 U.S.C. §1692 *et seq* FALSE AND MISLEADING PROSECUTION BY
DEFENDANT SHERMETA, ADAMS & VON ALLMEN

47. Defendants incorporate by reference their responses to paragraphs 1 through 46 as though fully set forth herein.

48. The allegations contained in paragraph 48 of Plaintiff's complaint are denied for the reason that said allegations are untrue.

49. The allegations contained in paragraph 49 are denied for the reason that said allegations are untrue.

50. The allegations contained in paragraph 50, and all subparts thereto of Plaintiff's complaint are denied for the reason that said allegations are untrue.

COUNT VII

VIOLATION OF FAIR DEBT COLLECTION PRACTICES ACT (FDCPA),
15 U.S.C. §1692 *et seq* FALSE AND MISLEADING PROSECUTION BY
DEFENDANT ANDREA A. ENRIGHT

51. Defendants incorporate by reference their responses to paragraphs 1 through 50 as though fully set forth herein.
52. The allegations contained in paragraph 52 of Plaintiff's complaint are denied for the reason that said allegations are untrue.
53. The allegations contained in paragraph 53 are denied for the reason that said allegations are untrue.
54. The allegations contained in paragraph 54, and all subparts thereto of Plaintiff's complaint are denied for the reason that said allegations are untrue.

COUNT IX

VIOLATION OF FAIR DEBT COLLECTION PRACTICES ACT (FDCPA),
15 U.S.C. §1692 *et seq* Fair Debt Collection Practices Act §808.Unfair
Practices 15 USC 1692f BY DEFENDANT ANDREA A. ENRIGHT

55. Defendants incorporate by reference their responses to paragraphs 1 through 54 as though fully set forth herein.
56. The allegations contained in paragraph 56 of Plaintiff's complaint are denied for the reason that said allegations are untrue.
57. The allegations contained in paragraph 57, and all subparts thereto of Plaintiff's complaint are denied for the reason that said allegations are untrue.

COUNT X

VIOLATION OF FAIR DEBT COLLECTION PRACTICES ACT (FDCPA),
15 U.S.C. §1692f *et seq* Unfair Debt Collection Practices. Furnishing Certain
Deceptive Forms BY DEFENDANT SHERMETA, ADAMS & VON ALLMEN

58. Defendants incorporate by reference their responses to paragraphs 1 through 57 as though fully set forth herein.

59. The allegations contained in paragraph 59 of Plaintiff's complaint are denied for the reason that said allegations are untrue.

60. The allegations contained in paragraph 60, and all subparts thereto of Plaintiff's complaint are denied for the reason that said allegations are untrue.

WHEREFORE, Defendants, SHERMETA, ADAMS & VON ALLMEN PC. & ANDREA A. ENRIGHT, KYLE J. VON ALLMEN, TERRI P. GRUCA, DEBORAH A. WINSLOW, respectfully requests that this Court dismiss this Complaint with prejudice and award attorney fees and costs accordingly.

SHERMETA, ADAMS & VON ALLMEN, P.C.

/s/ Deborah A. Winslow

DEBORAH A. WINSLOW (P63179)

Attorney for Defendant

P. O. Box 5016

Rochester, MI 48308

(248) 519-1700

dwinslow@shermeta.com

Dated: Sept. _20_, 2013

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

| | | |
|-------------------------------------|---|------------------------|
| REBEL HAYS, | } | |
| | } | |
| Plaintiff, | } | Case No. 1:13-cv-00913 |
| | } | Janet T. Neff |
| v. | } | U.S. District Judge |
| | } | |
| SHERMETA, ADAMS & VON ALLMEN PC. | } | |
| & ENRIGHT, ANDREA A. (individually) | } | |
| VON ALLMEN, KYLE J. (individually) | } | |
| GRUCA, TERRI P. (individually) | } | |
| WINSLOW, DEBORAH A. (individually) | } | |
| | } | |
| Defendants. | } | |

REBEL HAYS
Plaintiff, In Pro Per
31283 US HWY 12
Niles, MI 49120

DEBORAH A.WINSLOW (P63179)
SHERMETA, ADAMS & VON ALLMEN, P.C.
Attorney for Defendants
P. O. Box 5016
Rochester, MI 48308
(248) 519-1700

DEFENDANTS' AFFIRMATIVE DEFENSES

1. Plaintiff has failed to state a claim upon which relief may be granted.
2. Some or all of Plaintiff's claims are without merit due to the expiration of the applicable statute of limitations.
3. This court lacks subject matter jurisdiction over the matters raised in Plaintiff's complaint.

SHERMETA, ADAMS & VON ALLMEN, P.C.

/s/ Deborah A. Winslow
DEBORAH A. WINSLOW (P63179)
Attorney for Defendant
P. O. Box 5016
Rochester, MI 48308
(248) 519-1700
dwinslow@shermeta.com

Dated: Sept. __20__, 2013

RELIANCE UPON JURY DEMAND

Defendant, Shermeta, Adams & Von Allmen, P.C., through its attorneys, relies upon the demand for trial by jury requested by Plaintiff.

SHERMETA, ADAMS & VON ALLMEN, P.C.

/s/ Deborah A. Winslow
DEBORAH A. WINSLOW (P63179)
Attorney for Defendant
P. O. Box 5016
Rochester, MI 48308
(248) 519-1700
dwinslow@shermeta.com

Dated: Sept. __20__, 2013

AMENDED CERTIFICATE OF SERVICE

The undersigned certifies that a copy of Defendant's Answer and Affirmative Defenses and Certificate of Service were filed with the United States District Court, Western District of Michigan via electronic filing on Sept. __20__, 2013. I declare under the penalty of perjury that the statement above is true to the best of my information, knowledge and belief.

/s/ Deborah A. Winslow
DEBORAH A. WINSLOW (P63179)

